

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1897.

No. 397.

A. J. SELVESTER, PLAINTIFF IN ERROR.


vs.

THE UNITED STATES.

IN ERROR TO THE DISTRICT COURT OF THE UNITED STATES FOR
THE NORTHERN DISTRICT OF CALIFORNIA.

FILED JUNE 14, 1897.

(16,610.)



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JUDD & DETWEILER, PRINTERS, WASHINGTON, D. C., NOVEMBER 3, 1897.

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1 In the Supreme Court of the United States of America.

THE UNITED STATES OF AMERICA, Plaintiff and Defendant in }
 Error,
vs.
 A. J. SELVESTER, Defendant and Plaintiff in Error. }

THE UNITED STATES OF AMERICA, ss :

The President of the United States of America to the judge of the district court of the United States of America for the northern district of California, Greeting :

Because in the records and proceedings, as also in the rendition of the judgment of a plea which is in the said district court of the United States for the northern district of California, before the Honorable W. W. Morrow, district judge, between The United States, plaintiff and defendant in error, and A. J. Selvester, defendant and plaintiff in error, as by complaint doth appear, *and* being willing that error, if any hath been, should be duly corrected and full and speedy justice be done to the parties aforesaid and in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the records and proceedings aforesaid, with all things concerning the same, to the Supreme

2 Court of the United States of America, together with this writ, so that you have the same at Washington on the second Monday in October, A. D. 1896, in the said Supreme Court, to be then and there held, that, the record and proceedings aforesaid be then and there inspected, and that the Supreme Court cause to be further done therein to correct that error that of right and according to the laws and customs of the United States should be done.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States, this 8th day of July, A. D. 1896.

SOUTHARD HOFFMAN,
*Clerk of the District Court of the United States
 for the Northern District of California.*

3 [Endorsed:] No. —. Dep't —. Supreme Court of the United States. The United States, plaintiff and defendant in error, *vs.* A. J. Selvester, defendant and plaintiff in error. Writ of error. Receipt of copy of within — admitted this — day of —, 189—. — —, attorney for — —. Filed July 8th, 1896. Southard Hoffman, clerk, by J. S. Manley, deputy clerk. Geo. E. Colwell, attorney for pl'ff in error, Napa, Cal.

4 (Return to Writ of Error.)

The answer of the judge of the district court of the United States for the northern district of California.

The record and proceeding of the plaint whereof mention is within made, with all things touching the same, we certify under the seal

of our said court to the Supreme Court of the United States within mentioned, at the day and place within contained in a certain schedule to this writ annexed, as within we are commanded.

By the court:

[Seal of the U. S. District Court, Northern Dist. of California.]

SOUTHARD HOFFMAN,

Clerk U. S. District Court, Northern District of California.

5 In the District Court of the United States for the Northern District of California.

At a stated term of said court begun and holden at the city and county of San Francisco, State of California, within and for the northern district of California, on the second Monday in July, in the year of our Lord one thousand eight hundred and ninety-four.

The grand jurors of the United States of America within and for the district aforesaid on their oath present that James Selvester, later of the northern district of California, heretofore, to wit, on the fifth day of December, in the year of our Lord one thousand eight hundred and ninety-three, at Bieber, in the county of Shasta, State and northern district of California, and within the jurisdiction of the United States and of this honorable court then and there being, did then and there unlawfully, wilfully, knowingly, and feloniously, and with intent then and there to defraud some person or persons whose name or names is or are to the grand jurors aforesaid unknown, have in his, the said James Selvester's, possession the following three pieces of false, forged, and counterfeit coins of metal, to wit, three pieces of false, forged, and counterfeit coins of metal, each one of which said pieces of false, forged, and counterfeit coins of metal was then and there in the resemblance and similitude of a silver coin of the United States of America of the denomination known as and called a half-dollar or fifty-cent piece, which had been coined and stamped at a mint of the United States before the

6 said James Selvester had the said three pieces of false, forged, and counterfeit coins of metal hereinbefore described in his, the said James Selvester's, possession, as aforesaid, he, the said James Selvester, then and there, to wit, at the time and place that he, the said James Selvester, had the said pieces of false, forged, and counterfeit coins of metal hereinbefore described in his, the said James Selvester's, possession, as aforesaid, well knowing the said pieces of false, forged, and counterfeit coins of metal to be false, forged, and counterfeit, against the peace and dignity of the United States of America and contrary to the form of the statute of the said United States of America in such case made and provided.

And the grand jurors aforesaid on their oath aforesaid do further present that James Selvester, later of the northern district of California, heretofore, to wit, on the twelfth day of November, in the year of our Lord one thousand eight hundred and ninety-three, at Pittville, in the county of Shasta, State and northern district of California, and within the jurisdiction of the United States and of this

honorably court then and there being, did then and there unlawfully, wilfully, knowingly, and feloniously, and with intent to defraud one Ruben Baker, pass, utter, publish, and sell as true to the said Ruben Baker the following two certain pieces of false, forged, and counterfeit coins of metal, to wit, two pieces of false, forged, and counterfeit coins of metal, each one of which said two pieces of false, forged, and counterfeit coins of metal was then and there in the resemblance and similitude of a silver coin of the United States of America of the denomination known as and called a half-dollar or fifty-cent piece, which had been coined and stamped at a mint of the United States before the said James Selvester had the said two pieces of false, forged, and counterfeit coins of metal hereinbefore described in his, the said James Selvester's, possession, as aforesaid, he, the said James Selvester, then and there, to wit, at the time and place that he, the said James Selvester, had the said two pieces of false, forged, and counterfeit coins of metal hereinbefore described in his, the said James Selvester's, possession, as aforesaid, well knowing the said two pieces of false, forged, and counterfeit coins of metal to be false, forged, and counterfeit, against the peace and dignity of the United States of America and contrary to the form of the statute of the said United States of America in such case made and provided.

Third Count.

And the grand jurors aforesaid on their oath aforesaid do further present that James Selvester, late of the northern district of California, heretofore, to wit, on the fifth day of December, in the year of our Lord one thousand eight hundred and ninety-three, at Bieber, in the county of Shasta, State and northern district of California, and within the jurisdiction of the United States and this honorable court then and there being, did then and there unlawfully, wilfully, knowingly, and feloniously, and with intent to defraud one Wolf Rudee the following three certain pieces of false, forged, and counterfeit coins of metal, to wit, three pieces of false, forged, and counterfeit coins of metal, each one of which said three pieces of false, forged, and counterfeit coins of metal was then and there in the resemblance and dimilitude of a silver coin of the United States of America of the denomination known as and called a half-dollar or fifty-cent piece, which had been coined and stamped at a mint of the United States before the said James Selvester had the said three pieces of false, forged, and counterfeit coins of metal hereinbefore described in his, the said James Selvester's, possession, as aforesaid, he, the said James Selvester, then and there, to wit, at the time and place that he, the said James Selvester, had the said three pieces of false, forged, and counterfeit coins of metal hereinbefore described in his, the said James Selvester's, possession, as aforesaid, well knowing the said three pieces of false, forged, and counterfeit coins of metal to be false, forged, and counterfeit, against the peace and dignity of the United States of America and contrary to the form of

the statute of the said United States of America in such case made and provided.

Fourth Count.

And the grand jurors aforesaid on their oath aforesaid do further present that James Selvester, late of the northern district of California, heretofore, to wit, on the twelfth day of November, in the year of our Lord one thousand eight hundred and ninety-three, and at divers other days and times between the said twelfth day of November, in the year of our Lord one thousand eight hundred and ninety-three, and the fifth day of December, in the year of our Lord one thousand eight hundred and ninety-three, in the county of Shasta, State and northern district of California, and within the jurisdiction of the United States and of this honorable court then and there being, did then and there feloniously, knowingly,
 9 and unlawfully falsely make, forge, and counterfeit five certain pieces of metal in the resemblance and similitude of silver coins of the United States called half-dollars or fifty-cent pieces, which had been coined at a mint of the United States before the said James Selvester had so falsely made, forged, and counterfeited the said coins, as aforesaid, with intent to defraud some person or persons whose name or names is or are to the grand jurors aforesaid unknown, against the peace and dignity of the United States of America and contrary to the form of the statute of the said United States of America in such case made and provided.

CHAS. A. GARTER,
United States Attorney.

Names of witnesses examined before the said grand jury on finding the foregoing indictment: N. R. Harris, C. B. McCoy, R. Baker, Wolf Rudee.

(Endorsed :) A true bill. Judson Wheeler, foreman. Presented and filed in open court this 26th day of October, A. D. 1894. Southard Hoffman, clerk, by J. S. Manley, deputy clerk.

10 UNITED STATES OF AMERICA, }
Northern District of California, } ⁸⁸:

To the marshal of the United States of America for the district of California and his deputies or any or either of them, Greeting:

Whereas at a district court of the United States of America for the district of California, begun and held at the city and [SEAL.] county of San Francisco, within and for the district aforesaid, on the 26th day of Oct., in the year of our Lord one thousand eight hundred and ninety-four, the grand jurors in and for the said district brought into the said court a true bill of indictment against James Selvester for having false, &c., coins in his possession, passing same on Ruben Baker, &c., and for falsely making coins of metal, &c., in Shasta Co., Cal., &c., as by the said indictment now remaining on file and of record in said court will more fully

appear; to which indictment the said James Selvester has not yet appeared or pleaded:

Now, therefore, you are hereby commanded in the name of the President of the United States of America to apprehend the said James Selvester and him bring before the said court at the United States district court room, in the city and county of San Francisco, to answer the information aforesaid.

Witness the Hon. Wm. W. Morrow, judge of the said district court, and the seal thereof, at the city and county of San Francisco, the 26th day of Oct., A. D. 1894.

Attest:

SOUTHARD HOFFMAN, *Clerk*,
By ———, *Deputy Clerk*.

Chas. A. Garter, Esq., U. S. attorney.

[Endorsed:] No. 3073. United States district court, northern district of California. The United States of America vs. James Selvester. Bench warrant. Bail fixed at \$2,500. Chas. A. Garter, U. S. attorney.

(Endorsed:) Filed October 30th, 1894. Southard Hoffman, clerk, by J. S. Manley, deputy clerk.

UNITED STATES OF AMERICA, }
Northern District of California. }

MARSHAL'S OFFICE.

In obedience to the warrant, I have the body of the said James Silvester before the honorable the district court of the United States in and for the northern district of California this 30 day of October, A. D. 1894.

BARRY BALDWIN,
U. S. Marshal,

By M. C. HARRIS,
Deputy U. S. Marshal.

11 At a stated term of the district court of the United States of America for the northern district of California, held at the court-room, in the city of San Francisco, on Tuesday, the 30th day of October, in the year of our Lord one thousand eight hundred and ninety-five.

Present: The Honorable Wm. W. Morrow, judge.

THE UNITED STATES OF AMERICA }
vs. } No. 3073.
JAMES SELVESTER. }

In this case the defendant being produced in open court in obedience to a bench warrant issued herein, on motion of Samuel Knight, Esq., assistant U. S. attorney, and in default of bail, it is ordered that the defendant be committed to the custody of the U. S. marshal.

12 UNITED STATES OF AMERICA, }
Northern District of California, } ss :

The President of the United States to the marshal of the United States for the northern district of California, Greeting :

Whereas at the July, 1894, term of the district court of the United States of America for the northern district of California, held at the court-room of said court, in the city and county of San Francisco, in said district, to wit, on the 30 day of Oct., A. D. 1894, the United States marshal for the northern district of California produced the body of James Selvester in open court, in obedience to the provisions of a bench warrant heretofore issued for his arrest upon the charge of having false, &c., coins in his possession, passing same, &c., & for falsely making coins, &c. ;

And whereas, said James Selvester having been duly arraigned upon said charge and having pleaded not guilty, it was by the court ordered that in default of bail, heretofore fixed in the sum of \$2,500, the said James Selvester be committed to the custody of the United States marshal for the northern district of California to await trial :

Now, this is to command you, the said marshal, to take and keep the said James Selvester in your custody to await his trial or until the other or further order of this court.

Herein fail not.

Witness the Hon. Wm. W. Morrow, judge of the district court of the United States for the northern district of California, and the seal thereof, at San Francisco, in said district, on the 30 day of Oct., A. D. 1894.

[SEAL.]

SOUTHARD HOFFMAN,

Clerk of said District Court,

By ———, *Deputy Clerk.*

[Endorsed:] No. 3073. In the district court of the United States, northern district of California. The United States vs. James Selvester. Mittimus.

(Endorsed :) Issued Oct. 30th, 1894. Filed this 2d day of Nov., 1894. Southard Hoffman, clerk, by ———, deputy clerk.

The within mittimus was received by me on the 30 day of October, 1894, and is returned executed this 30th day of October, 1894, by placing said James Selvester in the Alameda County jail on said day.

BARRY BALDWIN,

U. S. Marshal,

By J. O. LITTLEFIELD, *Deputy.*

13 UNITED STATES OF AMERICA, }
Northern District of California, } ss :

Be it remembered that on this 12th day of November, in the year of our Lord one thousand eight hundred and ninety-four, before the undersigned, a commissioner duly appointed by the circuit court of the United States for the northern district of California to

take acknowledgments of bail and affidavits, and also to take depositions of witnesses in civil causes depending in the courts of the United States pursuant to the acts of Congress in that behalf, personally appeared James Selvester, as principal, and W. C. Selvester, J. V. Selvester, T. H. Vestal, John W. Rogers, Isaacs N. Vestal, as sureties, and jointly and severally acknowledged themselves to be indebted to the United States of America in the sum of twenty-five hundred (\$2,500) dollars, separately to be levied and made out of their respective goods and chattels, lands and tenements, to the use of the said United States.

The condition of the above recognizance is such that whereas an indictment has been found by the grand jury of the United States for the northern district of California, and filed on the 26th day of Oct'r, A. D. 1894, in the district court of the United States for said northern district of California, charging the said James Selvester with having false, &c., coins in his possession, passing same on Ruben Baker, &c., & for falsely making coins of metal, &c., in Shasta Co., Cal., committed on or about the 5th day of December, A. D. 1893, to wit, at the district aforesaid, contrary to the form of the statute of the United States in such case made and provided.

And whereas the said James Selvester has been required to give a recognizance, with sureties, in the sum of twenty-five hundred (\$2,500) dollars for his appearance:

Now, therefore, if the said James Selvester shall personally appear at the district court of the United States for the northern district of California, to be holden at the court-room of said court, in the city of San Francisco, on the 26th day of November, A. D. 1894, at eleven o'clock in the forenoon of that day, and afterwards whenever or wherever he may be required to answer the said indictment and all matters and things that may be objected against him whenever the same may be prosecuted, and render himself amenable to any and all lawful orders and process in the premises, and not depart the said court without leave first obtained, and if convicted shall appear for judgment and render himself in execution thereof, then this recognizance shall be void; otherwise to remain in full effect and virtue.

JAMES SELVESTER.	[SEAL.]
W. C. SELVESTER.	[SEAL.]
J. V. SELVESTER.	[SEAL.]
T. H. VESTAL.	[SEAL.]
JOHN W. ROGERS.	[SEAL.]
ISAAC N. VESTAL.	[SEAL.]

Acknowledged before me the day and year first above written by James Selvester.

SOUTHARD HOFFMAN,
Comm. U. S. Cir. Ct., N. D. Cal.

Comm'r U. S. circuit court, northern district of California, to take acknowledgments of bail, etc.

STATE AND NORTHERN DISTRICT OF CALIFORNIA, 88 :

T. H. Vestal, John Robers, and Isaac N. Vestal appeared before me and acknowledged the execution of the foregoing bond this 12th day of November, 1894.

[SEAL.]

A. A. BAKER,
Notary Public in and for Shasta Co., State of Cal.

STATE AND NORTHERN DISTRICT OF CALIFORNIA, 88 :

W. S. Selvester and John V. Selvester appeared before me and acknowledged the execution of the foregoing bond this 12th day of November, 1894.

[SEAL.]

I. H. WINTER,
Notary Public in and for Shasta County, State of California.

NORTHERN DISTRICT OF CALIFORNIA, 88 :

F. H. Vestal, John W. Rogers, and Isaac N. Vestal, being duly sworn, each for himself deposes and says that he is a householder in said district and is worth the sum of five hundred (\$500.00) and $\frac{9}{10}$ dollars, exclusive of property exempt from execution and over and above all debts and liabilities.

F. H. VESTAL.
JOHN W. ROGERS.
ISAAC N. VESTAL.

Subscribed and sworn to before me this 12th day of November, 1894.

[SEAL.]

A. A. BAKER,
Notary Public in and for Shasta County, State of California.

NORTHERN DISTRICT OF CALIFORNIA, 88 :

W. C. Selvester and John V. Selvester, being duly sworn, each for himself deposes and says that he is a householder in said district and is worth the sum of fifteen hundred dollars, exclusive of property exempt from execution and over and above all debts and liabilities.

W. C. SELVESTER.
J. V. SELVESTER.

Subscribed and sworn to before me this 12th day of November, 1894.

[SEAL.]

I. H. WINTER,
Notary Public in and for Shasta County, State of California.

— — — — —, being duly sworn, each for himself deposes and says that he is a householder in said district and is worth the sum of — dollars, exclusive of property exempt from execution and over and above all debts and liabilities.

— — —
— — —

Subscribed and sworn to before me this — day of —, A. D. 189—.

*Comm'r U. S. Circuit Court, Northern
District of California, to Take Acknowledgements of Bail, etc.*

The form of the foregoing bond and the sufficiency of the sureties thereto is hereby approved.

CHAS. A. GARTER,
U. S. Attorney.

REDDING, CAL., Nov. 16, 1894.

I hereby certify that I would accept and approve the within bond, in so far as the sureties are concerned, in a matter of like nature pending before me.

EDWARD SWEENEY,
Judge Superior Court, Shasta Co., Cal.

[Endorsed:] No. 3073. U. S. district court, northern district of California. The United States of America *vs.* James Selvester. Bond to appear in the sum of \$—, with — and — as sureties.

(Endorsed:) Filed Nov'r 20th, 1894. Southard Hoffman, clerk. J. S. Manley, deputy clerk.

14 At a stated term of the district court of the United States of America for the northern district of California, held at the court-room, in the city of San Francisco, on Monday, the 18th day of May, in the year of our Lord one thousand eight hundred and ninety-six.

Present: The Honorable Wm. W. Morrow, judge.

THE UNITED STATES OF AMERICA	} No. 3073.
<i>vs.</i>	
JAMES SELVESTER.	

In this case, the defendant being present in open court, with Geo. E. Colwell, Esq., his attorney, by order of the court, on motion of Bert Schlesinger, Esq., assistant U. S. attorney, the defendant was duly arraigned upon the indictment on file herein against him, and to which indictment he then and there pleaded not guilty.

On motion of Mr. Schlesinger, it is ordered that the trial hereof do now proceed; and thereupon the following-named persons were duly impaneled, accepted, and sworn as the jury to try this case, to wit, John D. Vaull, Frank E. Dietz, Samuel M. Capp, L. H. Clement, James McHaffie, Robert Murray, E. W. Newhall, P. J. White, Geo. E. Wheaton, Thomas A. Fisher, S. B. Cushing, and A. H. Hills.

The reading of the indictment being waived, Mr. Schlesinger stated the case on behalf of the United States to the court and jury, and called Wolf Rudee, Rheuben Baker, Frank McArthur, Chas.

B. McCoy, George Rogers, & N. R. Harris, Jr., who were duly sworn and examined as witnesses on behalf of the United States, and rested. Mr. Colwell stated the case on behalf of the defendant to the court and jury, and called James Selvester, J. F. Morrison, J. T. Burton, T. H. Vestal, C. E. Mayfield, Michael Kuney, C. A. Burton, J. C. Brown, W. C. Selvester, J. R. Creighton, C. Penrose, J. Killebrew, J. W. Zumwalt, M. O. Moores, W. H. Hollenbeck, G. A. Fine, and H. W. Caster, who were duly sworn and examined as witnesses on behalf of the defendant; and thereupon the further trial hereof was continued until Tuesday, May 19th, 1896.

15 At a stated term of the district court of the United States of America for the northern district of California, held at the court-room, in the city of San Francisco, on Tuesday, the 19th day of May, in the year of our Lord one thousand eight hundred and ninety-six.

Present: The Honorable Wm. W. Morrow, judge.

THE UNITED STATES OF AMERICA	} No. 3073.
vs.	
JAMES SELVESTER.	

In this case the defendant, with Geo. E. Colwell, Esq., his attorney, Bert Schlesinger, Esq., assistant U. S. attorney, and the jury sworn to try this cause being present in open court, the trial hereof was resumed. Mr. Colwell called A. A. Baker, who was fully sworn and examined as a witness on behalf of the defendant, and rested.

Mr. Schlesinger, by consent of Mr. Colwell and with the permission of the court, called W. A. Nichols, who was duly sworn and examined as a witness on behalf of the United States, and rested.

The case was then argued by Mr. Schlesinger and Mr. Colwell, and submitted. The court charged the jury, who at 12.34 p. m. retired to deliberate upon a verdict. By the court ordered that the marshal furnish meals to the jurors engaged in the trial of this case. Subsequently, at 2.42 p. m., the jury returned into court and asked for and received further instructions; and again retired, and at 3.45 p. m. returned into court and asked for and received further instructions; and without retiring, upon being asked if they had agreed upon a verdict, rendered a written verdict and said, "We, the jury, find James Selvester, the prisoner at the bar, guilty on the 1st, 2nd, and 3rd counts of the indictment and disagree on the 4th count of the indictment;" and so said they all. On motion of Mr. Schlesinger, it is ordered that the defendant be committed to the custody of the U. S. marshal to await sentence; and further ordered that the prisoner be produced in court on Monday, May 25th, 1896, at 11 o'clock a. m., for sentence.

16 In the District Court of the United States, Northern District of California.

THE UNITED STATES }
 vs. } No. 3073.
 JAMES SELVESTER. }

We, the jury, find James Selvester, the prisoner at the bar, guilty on the 1st, 2nd, & 3rd counts of the indictment and disagree on the 4th count of the indictment.

E. W. NEWHALL, *Foreman.*

(Endorsed :) Filed May 19th, 1896. Southard Hoffman, clerk, by J. S. Manley, deputy clerk.

17 UNITED STATES OF AMERICA, }
 Northern District of California, } *ss :*

The President of the United States to the marshal of the United States for the northern district of California, Greeting:

Whereas, at the July (1894) term of the district court of the United States of America for the northern district of California, held at the court-room of said court, in the city and county of San Francisco, in said district, to wit, on the 30 day of Oct., A. D. 1894, the United States marshal for the northern district of California produced the body of Jas. Selvester in open court in obedience to the provisions of a bench warrant heretofore issued for his arrest upon the charge of possession & passing false, &c., coins, &c.;

And whereas, said Jas. Selvester having been duly arraigned upon said charge, and having pleaded not guilty, & having been duly tried & convicted, it was by the court ordered that the said Jas. Selvester be committed to the custody of the United States marshal for the northern district of California to await sentenced:

Now, this is to command you, the said marshal, to take and keep the said Jas. Selvester in your custody to await his sentence or until the other or further order of this court.

Herein fail not.

Witness the Hon. Wm. W. Morrow, judge of the district court of the United States for the northern district of California, and the seal thereof, at San Francisco, in said district, on the 19th day of May, A. D. 1896.

[SEAL]

SOUTHARD HOFFMAN,

Clerk of said District Court,

By ———, *Deputy Clerk.*

[Endorsed :] No. 3073. In the district court of the United States, northern district of California. The United States *vs.* Jas. Selvester. Mittimus.

(Endorsed :) Issued May 19th, 1896. Filed this 21st day of May, 1896. Southard Hoffman, clerk, by ———, deputy clerk.

The within mittimus was received by me on the 19th day of May, 1896, and is returned executed this 19th day of May, 1896.

BARRY BALDWIN,

U. S. Marshal,

By S. P. MONCKTON, *Deputy.*

18 At a stated term of the district court of the United States of America for the northern district of California, held at the court-room, in the city of San Francisco, on Monday, the 1st day of June, in the year of our Lord one thousand eight hundred and ninety-six.

Present: The Honorable Wm. W. Morrow, judge.

THE UNITED STATES OF AMERICA

vs.

JAMES SELVESTER.

} No. 3073.

In this case, the prisoner being present in open court with Geo. E. Colwell, Esq., his attorney, on motion of H. S. Foote, Esq., U. S. attorney, the prisoner was called for sentence. Mr. Colwell then moved the court in arrest of judgment on the ground that the verdict is incomplete, and by the court ordered that said motion be, and the same is hereby, denied, and to which order denying said motion the prisoner, by his counsel, then and there duly excepted.

Mr. Colwell then moved the court to set aside the verdict on the ground that said verdict is incomplete, and by the court ordered that said motion be, and the same is hereby, denied, and to which order denying said motion the prisoner, by his counsel, then and there duly excepted. Mr. Colwell then moved for a new trial herein, and by the court ordered that said motion be, and the same is hereby, denied, and to which order denying said motion the defendant, by his counsel, then and there duly excepted.

And the prisoner *upon* being asked if he had anything to say why sentence should not be pronounced upon him according to law, and nothing appearing why sentence should not be pronounced, it is by the court now here ordered and adjudged that the said James Selvester, for the crime of which he stands convicted, be, and he is hereby, sentenced to pay a fine of \$1,000.00 and to be imprisoned for the term of ten (10) years at hard labor, and in default of the payment of said fine of \$1,000.00 that he be further imprisoned until said fine be paid or until he be otherwise discharged by due process of law; and further ordered and adjudged that said judgment of imprisonment be executed upon the said James Selvester, until the other or further order of the court, by imprisonment in the State prison of the State of California, at Folsom, California.

19 In the District Court of the United States for the Northern District of California.

THE UNITED STATES, Plaintiff, }
 vs.
 A. J. SYLVESTER, Defendant. }

Be it remembered, this cause coming on regularly for trial on Monday, the 18th day of May, 1896, the defendant having been theretofore arraigned and pleaded not guilty to all and the several counts of the indictment herein, Bert Schlesinger, Esq., assistant United States attorney for said district, appearing on the behalf of the United States, and Geo. E. Colwell appearing on behalf of the defendant, and the jury having been regularly impanelled, the United States, to maintain the issues on their part, introduced evidence in proof of all and the several counts of the indictment; which said indictment is as follows:

In the District Court of the United States for the Northern District of California.

At a stated term of said court begun and holden at the city and county of San Francisco, State of California, within and for the northern district of California, on the second Monday in July, in the year of our Lord one thousand eight hundred and ninety-four.

The grand jurors of the United States of America within and for the district aforesaid on their — present that James Sylvester, later of the northern district of California, heretofore, to wit, on the fifth day of December, in the year of our Lord one thousand eight hundred and ninety-three, at Bieber, in the county of Shasta, State and northern district of California, and within the jurisdiction of the United States and of this honorable court then and there being, did then and there unlawfully, wilfully, knowingly, and feloniously, and with intent then and there to defraud some person or persons whose name or names is or are to the grand jurors aforesaid unknown, have in his, the said James Sylvester's, possession the following three pieces of false, forged, and counterfeit coins of metal, to wit, three pieces of false, forged, and counterfeit coins of metal, each one of which said pieces of false, forged, and counterfeit coins of metal was then and there in the resemblance and similitude of a silver coin of the United States of America of the denomination known as and called a half-dollar or fifty-cent piece, which had been coined and stamped at a mint of the United States before the said James Sylvester had the said three pieces of false, forged, and counterfeit coins of metal hereinbefore described in his, the said James Sylvester's, possession, as aforesaid, he, the said James Sylvester, then and there, to wit, at the time and place he, the said James Sylvester, had the said pieces of false, forged, and counterfeit coins of metal hereinbefore described in his, the said James Sylvester's, possession, as aforesaid, well knowing the said pieces of false, forged, and counterfeit coins of metal to be false,

forged, and counterfeit, against the peace and dignity of the United States of America and contrary to the form of the statute of the said United States of America in such case made and provided.

21 And the grand jurors aforesaid on their oath aforesaid do further present that James Sylvester, later of the northern district of California, heretofore, to wit, on the twelfth day of November, in the year of our Lord one thousand eight hundred and ninety-three, at Pittville, in the county of Shasta, State and northern district of California, and within the jurisdiction of the United States and of this honorable court then and there being, did then and there unlawfully, wilfully, knowingly, and feloniously, and with intent to defraud one Ruben Baker, pass, utter, publish, and sell as true to the said Ruben Baker the following two certain pieces of false, forged, and counterfeit coins of metal, to wit, two pieces of false, forged, and counterfeit coins of metal, each one of which said two pieces of false, forged, and counterfeit coins of metal was then and there in the resemblance and similitude of a silver coin of the United States of America of the denomination known as and called a half-dollar or fifty-cent piece, which had been coined and stamped at a mint of the United States before the said James Sylvester had the said two pieces of false, forged, and counterfeit coins of metal hereinbefore described in his, the said James Sylvester's, possession, as aforesaid, he, the said James Sylvester, then and there, to wit, at the time and place that he, the said James Sylvester, had the said two pieces of false, forged, and counterfeit coins of metal hereinbefore described in his, the said James Sylvester's, possession, as aforesaid, well knowing the said two pieces of false, forged, and counterfeit coins of metal to be false, forged, and counterfeit, against the peace and dignity of the United States of America and contrary to the form of the statute of the said United States of America in such case made and provided.

22

Third Count.

And the grand jurors on their oath aforesaid further present that James Selvester, late of the northern district of California, heretofore, to wit, on the fifth day of December, in the year of our Lord one thousand eight hundred and ninety-three, at Bieber, in the county of Shasta, State and northern district of California, and within the jurisdiction of this honorable court then and there being, did then and there unlawfully, wilfully, knowingly, and feloniously, and with intent to defraud one Wolf Rudee, pass, utter, and publish, and sell as true to the said Wolf Rudee the following three certain pieces of false, forged, and counterfeit coins of metal, to wit, three pieces of false, forged, and counterfeit coins of metal, each one of which said three pieces of false, forged, and counterfeit coins of metal was then and there in the resemblance and similitude of a silver coin of the United States of America of the denomination known as and called a half-dollar or fifty-cent piece, which had been coined and stamped at a mint of the United States before the said James Sylvester had the said three pieces of false, forged, and counterfeit coins of metal here-

inbefore described in his, the said James Sylvester's, possession, as aforesaid, he, the said James Sylvester, then and there, to wit, at the time and place that he, the said James Sylvester, had the said three pieces of false, forged, and counterfeit coins of metal hereinbefore described in his, the said James Sylvester's, possession, as aforesaid, well knowing the said three pieces of false, forged, and counterfeit coins of metal to be false, forged, and counterfeit.

Fourth Count.

23 And the grand jurors aforesaid on their oath aforesaid do further present that James Sylvester, late of the northern district of California, heretofore, to wit, on the twelfth day of November, in the year of our Lord one thousand eight hundred and ninety-three, and at divers other days and times between the said twelfth day of November, in the year of our Lord one thousand eight hundred and ninety-three, and the fifth day of December, in the year of our Lord one thousand eight hundred and ninety-three, in the county of Shasta, State and northern district of California, and within the jurisdiction of the United States and of this honorable court then and there being, did then and there feloniously, knowingly, and unlawfully falsely make, forge, and counterfeit five certain pieces of metal in the resemblance and similitude of silver coins of the United States called half-dollars or fifty-cent pieces, which had been coined at a mint of the United States before the said James Sylvester had so falsely made, forged, and counterfeited the said coins, as aforesaid, with intent to defraud some person or persons whose name or names is or are to the grand jurors aforesaid unknown, against the peace and dignity of the United States of America and contrary to the form of the statute of the said United States of America in such case made and provided.

CHAS. A. GARTER,

United States Attorney.

Names of witnesses examined before the grand jury on finding the foregoing indictment: N. R. Harris, C. B. McCoy, R. Baker, Wolf Rudee.

(Endorsed :) A true bill. Judson Wheeler, foreman. Presented and filed in open court this 26th day of October, A. D. 1894. Southard Hoffman, clerk, by J. S. Manley, deputy clerk.

24 Arraigned May 18th, 1896, and pleads not guilty.
Tried May 18, 19, 1896.

Verdict, guilty on 1st, 2nd, 3rd counts and disagrees as to the 4th count.

June 1st, 1896.

Sentenced to pay a fine of \$1,000 and to be imprisoned at hard labor for 10 yrs. at Folsom, and in default of fine to be further imprisoned until paid.

And the defendant, in support of the issues on his part, introduced evidence in support of his plea of not guilty of each and all

of the counts of said indictment, and thereafter the court instructed the jury and they retired to their jury-room, and thereafter came into court and announced that they were unable to agree, but stated that they agreed on the first three counts of the indictment, but could not agree on the fourth count, and asked the court if they could return such a verdict. The court informed them they could, and the district attorney then asked leave of the court to enter a *nolle prosequi* as to the fourth count; to which motion the counsel for the defendant objected, and upon such objection the district attorney withdrew his said motion, and the jury then, without retiring, drew up and signed the following as their verdict: "We, the jury, find the defendant guilty on the first, second, and third counts and disagree as to the fourth count;" that, over defendant's objection and exception, the court received said verdict and caused the same to be recorded, and the jury were then discharged; that thereafter, upon the discharge of the jury, the defendant gave notice in open court that he would move for arrest of judgment and for a new trial on Monday, the first day of June, 1896.

25 That on the first day of June, 1896, the defendant moved the said district court for an arrest of judgment on the ground that the said verdict was no verdict in law and was insufficient, incomplete, and uncertain. The motion was denied by the court; to — ruling the defendant then and there excepted and now assigns the same as error.

The defendant then moved the court for an order setting aside the said verdict on the ground that the same was incomplete, uncertain, insufficient, and in law no verdict. Said motion was by the court denied; to which ruling the defendant then and there excepted and now assigns the same as error.

The defendant then moved the court for a new trial on the ground that the verdict, as herein declared, was uncertain, incomplete, insufficient, and in law no verdict, and on the further ground that the court erred in receiving said pretended verdict as a legal verdict. The court denied said motion; to which ruling the defendant then and there excepted and now assigns the same as error. The court thereafter sentenced the defendant to be imprisoned in the State prison of California, situated at Folsom, for the period of ten years and to pay a fine of \$1,000.

And forasmuch as the foregoing facts do not appear fully of record the defendant prays that this his bill of exceptions may be signed and sealed and made a part of the record; which is accordingly done.

WM. W. MORROW,
District Judge.

Dated San Francisco, Cal., July 8th, 1896.

(Endorsed:) Filed July 8th, 1896. Southard Hoffman, clerk, by J. S. Manley, deputy clerk.

26 In the District Court of the United States in and for the Northern District of California.

THE UNITED STATES OF AMERICA, Plaintiff and Defendant in }
Error,
vs.

A. J. SELVESTER, Defendant and Plaintiff in Error. }

The said A. J. Selvester feeling himself aggrieved by the verdict of the jury and the judgment entered by the court on the first day of June, 1896, in pursuance of such verdict, whereby it was ordered, adjudged, and decreed that the defendant be imprisoned in the State prison, at Folsom, for the period of ten years and pay a fine of one thousand (1,000) dollars—

Comes now A. J. Selvester, by Geo. E. Colwell, his attorney, and respectfully petitions this honorable court for an order allowing this defendant to prosecute a writ of error to the honorable the Supreme Court of the United States under and according to the laws of the United States in that behalf made and provided, and that on the allowance of said writ of error all further proceedings in this court be suspended and stayed until the determination of said writ of error by the United States Supreme Court.

Said defendant herewith files his bill of exceptions herein, together with his specifications and assignments of error; to which bill of specifications and assignments of error reference is hereby specially made for the purpose of this application.

Reference is also made to the entire record of the case at
27 the date of this application on file herein.

Respectfully submitted.

GEO. W. COLWELL,

Attorney for said Defendant.

San Francisco, June 25, 1896.

(Endorsed :) Filed July 8th, 1896. Southard Hoffman, clerk, by J. S. Manley, deputy clerk.

28 In the District Court of the United States in and for the Northern District of California.

THE UNITED STATES OF AMERICA, Plaintiff and Defendant in }
Error,
vs.

A. J. SELVESTER, Defendant and Plaintiff in Error. }

Now comes the above-named defendant and particularly specifies the following as errors upon which he will rely and which he will urge upon his writ of error in the above-entitled cause:

1. That the court erred in denying defendant's motion for arrest of judgment herein.
2. That the court erred in denying defendant's motion to set aside the verdict rendered herein.
3. That the court erred in denying defendant's motion for a new trial.

4. That the court erred in proceeding to sentence upon the verdict rendered herein.

In order that the foregoing assignments of error may be and appear of record, the plaintiff in error presents the same to the court and prays that said disposition may be made thereof in accordance with the law and the statutes of the United States in such case made and provided, and prays an order that the judgment of the United States district court in and for the northern district of California be reversed and set aside, and that he be granted a new trial, and that he be dismissed and discharged from said indictment in said cause.

San Francisco, July 8th, 1896.

GEO. E. COLWELL,

Attorney for Defendant and Plff in Error.

(Endorsed:) Filed July 8th, 1896. Southard Hoffman, clerk, by J. S. Manley, deputy clerk.

29 In the District Court of the United States in and for the Northern District of California.

THE UNITED STATES OF AMERICA, Plaintiff and Defendant in Error, <i>vs.</i> A. J. SELVESTER, Defendant and Plaintiff in Error.	}	Order Allowing Writ of Error and Directing Clerk to Issue the Same.
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Upon reading and filing the petition of A. J. Selvester, said defendant, from the judgment entered by this court on June 1st, 1896, whereby it was decreed that defendant be imprisoned at the State prison, at Folsom, for the term of ten years and pay a fine of one thousand (1,000) dollars, that he be allowed to prosecute a writ of error to the honorable the Supreme Court of the United States under and according to the laws of the United States in that behalf made and provided, and good cause appearing for the granting of said petition—

It is hereby ordered that said defendant be permitted to so prosecute said writ of error in the said Supreme Court of the United States.

And, further, that the clerk of this court do forthwith issue said writ in said behalf.

WM. W. MORROW,

*District Judge of the United States District Court
in and for the Northern District of California.*

San Francisco, Calif., July 8th, 1896.

(Endorsed:) Filed July 8th, 1896. Southard Hoffman, clerk, by J. S. Manley, deputy clerk.

30 In the District Court of the United States of America, Northern District of California.

THE UNITED STATES OF AMERICA, Plaintiff and Defendant in	}
Error,	
vs.	
A. J. SELVESTER, Defendant and Plaintiff in Error.	

On writ of error to the United States district court for the northern district of California from a conviction of defendant for passing and coining counterfeit coin.

To the Honorable W. W. Morrow, judge of the United States district court, northern district of California :

The petition of A. J. Selvester, the said defendant and now plaintiff in error, respectfully sheweth unto your honor—

That on or about the 26th day of October, A. D. 1894, your petitioner was indicted by the grand jury within and for the northern district of California upon indictment in four counts, and was thereupon arrested and held to bail in the sum of two thousand five hundred (2,500) dollars; which bail petitioner duly gave and was thereupon released pending trial.

That said indictment was framed in four counts. The first count alleges that defendant had in his possession three pieces of false, forged, and counterfeit coins of metal in the resemblance and similitude of silver coins of the United States, well knowing that said pieces were false, forged, and counterfeit coins.

That the second and third counts of said indictment allege that the said defendant passed upon different parties certain
 31 false, forged, and counterfeit coins of money; that the fourth count of said indictment charged that the said defendant did feloniously, knowingly, and unlawfully make, forge, and counterfeit five pieces of metal in the resemblance and similitude of coins of the United States called half-dollars.

That defendant pleaded not guilty to each and all of the counts of said indictment, and thereafter, on the 18th day of May, 1896, after a trial before a jury, and that after the cause had been submitted to the jury and they had retired to their room, they, after several hours of deliberation, returned into the court and announced that they were unable to agree, and asked the court if they could agree to some of the counts of the indictments and disagree as to the residue. The court informed them that they could, and without retiring the jury then reported the following verdict :

We, the jury, find the defendant guilty of the first, second, and third counts and disagree as to the fourth count.

That thereafter the defendant moved in arrest of judgment and for a new trial, and that the verdict be set aside, each motion being made separately and each and all being made upon the ground that the verdict, as rendered and recorded as the verdict of the jury, was in law no verdict; that it was uncertain and incomplete; that each and every of said motion- was by the court denied; that to all these denials of defendant's said motion- defendant duly and properly

excepted; that thereafter the said defendant was sentenced by the court to ten years imprisonment in the State prison and to pay a fine of one thousand dollars.

That the defendant was at that time ordered into custody and is incarcerated in the prison under such verdict and judgment.

32 And petitioner has since *issued* out a writ of error in this honorable court, directed to said district court of the United States in and for the said northern district of California, and that the records and papers thereon have been transmitted to the Supreme Court of the United States, and that a certified copy is hereby presented to this honorable court.

That petitioner is advised by his counsel, Geo. E. Colwell, of the county of Napa, State of California, that the said alleged verdict is void and of no effect, and that judgment thereon is void and of no effect; that petitioner is wrongfully and unlawfully imprisoned, and that petitioner has good and lawful cause to reverse the judgment and verdict and sentence herein before the Supreme Court of the United States.

That he is further advised and believes that your honor has the power and authority to grant a writ of supersedeas and admit petitioner to bail, staying the execution further of said sentence, as such time as petitioner and plaintiff in error may be able to have his writ of error, pending in the Supreme Court of the United States, heard and determined, and in that behalf petitioner further avers that he, prior to the said indictment, resided in Shasta county, State of California, for more than twenty-five years; that he was a pioneer of that county, and during that period was a farmer and miner, and during his entire life he has never been before charged with any crime or misdemeanor; that his reputation is the community, where he has resided for more than twenty-five years, for honesty and integrity is good, and that at his said trial more than twenty of the best citizens of the community where he has resided testified to that effect.

33 That he is a man of fifty-one years of age and has always been a good and upright citizen, and avers that he is not guilty of the offenses as charged in the first three counts, upon which he was convicted, and as he is informed and believes, and upon his information and belief alleges, that he will get a new trial, and believes that upon that new trial he will be acquitted of the crimes as charged in the first three counts of said indictment, and the confining him in prison pending the hearing of his writ of error will work upon him a very grave hardship, and that he is ready and willing to give a good, sufficient, and satisfactory bond in any reasonable amount for his appearance in the case of rehearing, or in the event that the judgment is affirmed, that he will appear and render himself subject to the judgment and sentence of the court.

Petitioner humbly avers that he believes this cause is one in which bail pending an appeal should and ought in mercy and justice be allowed.

And he doth humbly and earnestly shew unto and petition your honor that he may have that grace to be so admitted to bail pend-

ing the hearing of this cause upon proper, good, and sufficient surety in money, conditions, and amount to be fixed and determined as your honor may direct.

And your orator will ever pray.

GEO. E. COLWELL,
Att'y for Petitioner.

A. J. SELVESTER, *Petitioner.*

STATE OF CALIFORNIA, }
City and County of San Francisco, } ^{ss :}

34 A. J. Selvester, being duly sworn, deposes and says that he is A. J. Selvester, the petitioner in the above-entitled action ; that he has read the above and foregoing petition and knows the contents thereof ; that the same is true of his own knowledge except as to the matters which are therein stated on his information or belief, and as to those matters that he believes it to be true.

A. J. SELVESTER.

Subscribed and sworn to before me this 25 day of June, A. D. 1896.

[SEAL.]

N. E. W. SMITH,
*Notary Public in and for the City and County
of San Francisco, State of California.*

(Endorsed :) Filed July 8th, 1896. Southard Hoffman, clerk, by J. S. Manley, deputy clerk.

35 In the Supreme Court of the United States of America.

THE UNITED STATES OF AMERICA, Plaintiff and	} Citation on Writ of Error.
Defendant in Error,	
<i>vs.</i>	
A. J. SELVESTER, Defendant and Plaintiff in	
Error.	

THE UNITED STATES OF AMERICA, ^{ss :}

To H. S. Foote, Esq., attorney for the United States and United States district attorney for the northern district of California :

You are hereby cited and admonished to be and appear at a term of the Supreme Court of the United States, to be holden at Washington on the second Monday of October, A. D. 1896, pursuant to an order allowing a writ of error, entered in the clerk's office of the district court of the United States for the northern district of California from a judgment of conviction entered on the first day of June, A. D. 1896, in that certain action wherein The United States was plaintiff and A. J. Selvester was defendant, and show cause, if any there be, why the judgment of conviction rendered against said defendant, A. J. Selvester, as in said order allowing a writ of error mentioned, should not — granted and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States of America, this 8th day of July, A. D. 1896.

WM. W. MORROW,
*Judge of the District Court of the United States
for the Northern District of California.*

25½ Service of the within citation is hereby admitted this 25th day of June, A. D. 1896.

HENRY S. FOOTE,
*United States District Attorney for the
Northern District of California.*

35½ [Endorsed:] No. —. Dept. —. Supreme Court of the United States. The United States, plaintiff and defendant in error, vs. A. J. Selvester, defendant and plaintiff in error. Citation on writ of error. Receipt of copy of within — admitted this — day of —, 189—. — — —, attorney for —. Filed July 8th, 1896. Southard Hoffman, clerk, by J. S. Manley, deputy clerk. Geo. E. Colwell, attorney for pl'ff in error, Napa, Cal.

36 At a stated term of the district court of the United States of America for the northern district of California, held at the court-room, in the city of San Francisco, on Wednesday, the 8th day of July, in the year of our Lord one thousand eight hundred and ninety-six.

Present: The Honorable Wm. W. Morrow, judge.

THE UNITED STATES OF AMERICA }
vs. } No. 3073.
JAMES SELVESTER.

The matter of the petition of James Selvester, defendant herein, for a writ of supersedeas and an order admitting said defendant to bail pending the determination of his writ of error to the Supreme Court of the United States this day came on for hearing—Geo. E. Colwell, Esq., appearing as attorney for said defendant and H. S. Foote, Esq., U. S. attorney, appearing on behalf of the United States—and, after hearing Mr. Colwell and Mr. Foote and due consideration had thereon, it is by the court ordered that said petition be, and the same is hereby, denied.

37 UNITED STATES OF AMERICA, }
Northern District of California, } ss :

The President of the United States to the marshal of the United States for the northern district of California, Greeting:

Whereas, at the Febr'y (1896) term of the district court of the United States of America for the northern district of California, held at the court-room of said court, in the city and county of San Francisco, in said district, to wit, on the 19th day of May, A. D. 1896, James Selvester was convicted of the possession, &c., of three pieces

of false, forged, & counterfeit coins of the U. S., &c., &c., committed on or about the 5th day of December, 1893, at Bieber, in the county of Shasta, and within the jurisdiction of said court, contrary to the form of the statutes of the United States in such case made and provided and against the peace and dignity of the said United States;

And whereas, on the 1st day of June, A. D. 1896, being a day in the special term of said court, said James Selvester was, for said offense of which he stood convicted, as aforesaid, by the judgment of said court ordered to pay a fine of \$1,000 and to be imprisoned at hard labor for the term of ten (10) years, to date from June 1st, 1896, and in default of the payment of said fine to be further imprisoned until the same be paid or until he be otherwise discharged by due process of law; and it was further ordered by the court that said sentence of imprisonment be executed upon the said James Selvester, until the other or further order of the court, by imprisonment in the State prison of the State of California, at Folsom, county of Sacramento, State of California:

Now, this is to command you, the said marshal, to take and keep and safely deliver the said James Selvester into the custody of the keeper or warden or other officer in charge of said State prison forthwith.

And this is to command you, the said keeper and warden and other officers in charge of the said State prison, to receive from the United States marshal of said northern district of California the said James Selvester, convicted and sentenced as aforesaid, and him, the said James Selvester, keep and imprison at hard labor for the term of ten (10) years, to date from June 1st, 1896, and in default of the payment of said fine of \$1,000 further keep and imprison said James Selvester until the said fine be paid or until he be otherwise discharged by due process of law.

Herein fail not.

Witness the Hon. Wm. W. Morrow, judge of the district [SEAL.] court of the United States for the northern district of California, and the seal thereof, at San Francisco, in the said district, on the 1st day of June, A. D. 1896.

SOUTHARD HOFFMAN,

Clerk of said District Court,

By — — —, *Deputy Clerk.*

[Endorsed:] No. 3073. In the district court of the United States, northern district of California. The United States vs. James Selvester. Commitment.

(Endorsed-) Issued June 1st, 1896. Filed on return 13 July, 1896. Southard Hoffman, clerk, by J. S. Manley, deputy clerk.

The within warrant of commitment was received by me on the first day of June, 1896, and is returned executed this 11th day of July, 1896, by placing the within-named James Selvester into the custody of the warden of California State prison, at Folsom.

BARRY BALDWIN,

U. S. Marshal,

By H. M. MOFFITT, *Deputy.*

38

CALIFORNIA STATE PRISON, AT FOLSOM.

I hereby certify that Barry Baldwin, United States marshal for the northern district of California, this day delivered to the prison at Folsom James Selvester, a convict, who was sentenced on the 1st day of June, 1896, in the honorable district court of the ninth judicial district of the United States, to be imprisoned in the California State prison, at Folsom, for the term of 10 years and to pay a fine of \$1,000, and to be further imprisoned until said fine is paid, for the crime of having in his possession counterfeit coin, &c.

In witness whereof I have hereunto set my hand and affixed the seal of the prison this 11th day of July, A. D. 1896.

CHARLES AULL, *Warden.*

39

UNITED STATES OF AMERICA, }
Northern District of California, } ss :

I, Southard Hoffman, clerk of the district court of the United States for the northern district of California, do hereby certify the foregoing and hereunto-annexed thirty-eight pages, numbered from one (1) to thirty-eight (38) respectively, are a true copy of the record and of all proceedings in the cause mentioned in the annexed writ of error, and that the same constitute the return to said writ.

In witness whereof I have hereunto
 Seal of the U. S. District set my hand and affixed the seal of said
 Court, Northern Dist. court, at San Francisco, in said district,
 of California. this 14th day of July, A. D. 1896.

SOUTHARD HOFFMAN, *Clerk.*

Endorsed on cover: Case No. 16,610. N. California D. C. U. S. Term No., 397. A. J. Selvester, plaintiff in error, vs. The United States. Filed June 14th, 1897.